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SUBJECT: NIGERIA: MONEY LAUNDERING SECTION OF 2002 INCSR

The following is Post's submission of the Nigeria section of the 2002 INCSR Money Laundering Chapter.

Nigeria.

The Federal Republic of Nigeria is Africa's largest democracy. It is a hub of money laundering and criminal activity not only for the West African sub-region but also increasingly for the entire continent. Nigerian trafficking and money laundering organizations have proven adept at devising new ways of subverting law enforcement efforts, and evading detection. Their success in avoiding detection and prosecution has led to an increase in financial crimes of all types, including bank fraud, advance fee fraud, and money laundering. Despite the determined efforts of the new government to counter years of rampant corruption, crime continues to plague Nigerians.

Nigerian Advance Fee Fraud is one of the most lucrative financial crimes committed by Nigerians. Conservative estimates indicate hundreds of millions of dollars in illicit profits generated annually. This type of fraud is referred to internationally as "Four-One-Nine-Scams," (419 is the Nigerians criminal code's section on fraud). The gist of a "419" scam is to trick victims by persuading them that they will receive an exorbitant return for providing a relatively modest payment of a fictitious fee in advance. Businesses and individuals around the world have been and continue to be targeted by these "get rich quick" offers. These scams often go beyond confidence games; violence against the fraud victims has also occurred. Substantial evidence exists that narcotics traffickers have utilized 419 Scams to fund their illicit smuggling efforts.

The Financial Action Task Force (FATF) in June 2001 and in June 2002 designated Nigeria as a Non-Cooperating Country or Territory for failing to improve its money laundering controls and failing to cooperate with repeated FATF requests for information. In October 2002, FATF gave Nigeria a deadline of December 15, 2002 to adopt necessary anti-money laundering legislation or face "counter-measures" by FATF members. Although proposed legislation had been held up in the National Assembly, the GON worked energetically in the last months of 2002 to pass legislative reforms. The National Assembly, meeting in emergency session on December 14, 2002, passed three key pieces of anti-money laundering legislation: an amendment to the 1995 Money Laundering Act, that extends the scope of the law's coverage beyond the proceeds of drug trafficking to the proceeds of all crimes; an amendment to the 1991 Banking and Other Financial Institutions (BOFI) Act that expands coverage of the law to stock brokerage firms and foreign currency exchange facilities and gives the Central Bank of Nigeria greater power to deny banks licenses and to freeze suspicious accounts; and the new Financial Crimes Commission Act that creates a central law enforcement body to coordinate anti-money laundering operations and information sharing.

The National Drug Law Enforcement Agency (NDLEA) and the Money Laundering Surveillance Unit (MLSU) of the Central Bank of Nigeria will continue to play a role in fighting money laundering, but they will no longer have the lead roles -- that role will fall to the new Financial Crimes Commission. Under the new legislation passed on December 14, 2002, financial institutions are required to report cash transactions that exceed N1,000, 000 (U.S. \$8,800) for an individual and N5 million (U.S. \$45,000) for corporate bodies. Identification of customers is required when a transaction exceeds the threshold amount of U.S. \$10,000 or its equivalent.

In passing these laws, Nigeria met the FATF's immediate demand (the December 15, 2002 deadline) of expanded coverage of its money laundering laws beyond narcotics

trafficking and making financial institutions' reporting requirements more effective. The additional legislation -- extending coverage of anti-money laws to other financial institutions, providing the Central Bank of Nigeria with the powers to freeze suspicious accounts and deny licenses to banks suspected of money laundering, and creating a central coordinating body and financial intelligence unit -- go a long way toward bringing Nigeria's money laundering control regime into conformity with international standards. Nigeria is well positioned to continue its dialogue with the FATF towards the goal of ending its designation as a Non-Cooperating Country or Territory.

Creation, staffing and the operations of the new Financial Crimes Commission will be critical to the effectiveness of the new laws. The Commission should second experienced staff from various law enforcement agencies; it should also build up its own cadre of professional investigators. We encourage the Government of Nigeria to fund adequately this important new Commission and we hope to provide the Commission's new staff technical assistance and training. With trained staff and adequate operational funding, the new Commission can begin to obtain court convictions on money laundering cases it investigates, a much needed departure from the past lack of money laundering convictions.

The Corrupt Practices and other Related Offences Act was signed into law in June of 2000. The Independent Corrupt Practices Commission was established to enforce the newly enacted law and granted powers of investigation, arrest and prosecution. The Commission's first public trials began in May 2001. Nigeria is a party to the 1988 UN Drug Convention and in June 2001 provided notification that it had ratified and the 2000 UN Convention against Transnational Crime, which is not yet in force internationally. The United States and Nigeria signed an MLAT in 1989, which was ratified by the United States in 2001, and is currently pending approval by the Nigerian Parliament.

(end).

JETER